

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1772 – SB 1971

March 20, 2018

SUMMARY OF ORIGINAL BILL: Creates a process by which a public official is authorized to contest liens or other encumbrances relating to real property that the public official believes was filed without any reasonable basis or legal cause. Authorizes any local government entity to insure or indemnify any public official for the costs associated with defending and removing liens or encumbrances or protesting the listing of the public official as a debtor in a filed Uniform Commercial Code financing statement.

FISCAL IMPACT OF ORIGINAL BILL:

Increase Local Expenditures – Exceeds \$1,000/Permissive

SUMMARY OF AMENDMENT (015625): Deletes and replaces all language after the enacting clause such that the substantive changes are: (1) requires a public official's affidavit filed with the county register to include a statement that the public official is not filing the affidavit contesting any document held by certain outlined entities; (2) requires the public official to send a copy of the affidavit by certified or registered mail to the filing party; and (3) authorizes a public official to file certification with the register if no petition and cost bond are filed.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- This legislation defines a public official as an individual who is a current or retired elected or appointed state, county, metropolitan, or municipal government official; a head of a division, major unit, or department in an agency or office of the executive, judicial, or legislative branch of state, county, metropolitan, or municipal government who provides meaningful input on the development of policy goals or the implantation of the policy; high-ranking employees with the executive, judicial, or legislative

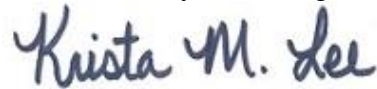
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branches that have the responsibility for certain public functions; a first responder; or a law enforcement officer.

- This legislation requires the Secretary of State (SOS) to adopt a form of affidavit and a form of certification for public officials to complete in order to contest such liens or other encumbrances.
- Based on information provided by the SOS, any impact resulting from preparing such forms is estimated to be not significant.
- This legislation authorizes a public official who is subject to a lien or other encumbrance, which believes the lien or encumbrance was filed without any reasonable basis or legal cause, to file a notarized affidavit with the county register's office. After successful delivery of the affidavit to the filing party, the filing party is authorized to file a petition seeking determination in the chancery court of the county where the lien or other encumbrance was filed.
- Any increase in filings to county registers' offices will be absorbed utilizing existing resources. Any impact to county registers' offices is estimated to be not significant.
- This legislation requires a petition for review be accompanied by a \$200 cost bond unless the originator, owner, or holder of the debt is one of the entities outlined in this legislation.
- If a cost bond is required, the \$200 will be applied to the total charged to petitioners per hearing.
- Any increase in caseloads to the court system will be absorbed utilizing existing resources. Any impact to the court system is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 29-20-102(3), a governmental entity includes any political subdivision of the State of Tennessee.
- Any action taken by a local government entity to insure or indemnify a public official is permissive.
- The recurring statewide permissive increase in local expenditures associated with insuring or indemnifying public officials is estimated to exceed \$1,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/amj